

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SEAN SMITH,

Plaintiff,

- against -

LT. R. WILSON #4465, DT. K. KELLY
#72819,

Defendants.


TO THE HONORABLE P. KEVIN CASTEL, U.S.D.J.:

09 Civ. 8520 (PKC) (JCF)

REPORT AND
RECOMMENDATION

The Second Amended Complaint in this action was filed on August 19, 2010, and service on the defendants was never effected. By letter dated February 17, 2011, I advised the plaintiff to submit within two weeks any reasons why the action should not be dismissed. I received no reply. I therefore recommend that the complaint be dismissed without prejudice pursuant to Rule 4(m) of the Federal Rules of Civil Procedure. Pursuant to 28 U.S.C. § 636(b)(1) and Rules 72, 6(a), and 6(d) of the Federal Rules of Civil Procedure, the parties shall have fourteen (14) days to file written objections to this Report and Recommendation. Such objections shall be filed with the Clerk of the Court, with extra copies delivered to the chambers of the Honorable P. Kevin Castel, Room 2260, and to the chambers of the undersigned, Room 1960, 500 Pearl Street, New York, New York 10007. Failure to file timely objections will preclude appellate review.

Respectfully submitted,



JAMES C. FRANCIS IV
UNITED STATES MAGISTRATE JUDGE

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ELECTRONICALLY FILED
DOC #:
DATE FILED: 3/4/11

Dated: New York, New York
March 4, 2010

Copies mailed this date to:

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09-A-2818
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